

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KOHEN DIALLO E. UHURU,

Petitioner,

v.

KATHLEEN ALLISON, J. BENAVIDEZ,
& ROBERT BURTON

Respondents.

Case No. 2:22-cv-02024-JDP (HC)

ORDER GRANTING APPLICATION TO
PROCEED *IN FORMA PAUPERIS* AND
FINDING THAT THE PETITION DOES NOT
STATE A COGNIZABLE SECTION 2254
CLAIM AND GRANTING LEAVE TO
AMEND WITHIN THIRTY DAYS

ECF Nos. 1 & 2

Petitioner, a state prisoner proceeding without counsel, seeks a writ of habeas corpus under 28 U.S.C. § 2254. After reviewing the petition, I find that it fails to state a viable federal claim. I will give petitioner a chance to amend before recommending that this action be dismissed. I will also grant his application to proceed *in forma pauperis*, ECF No. 2.

The petition is before me for preliminary review under Rule 4 of the Rules Governing Section 2254 Cases. Under Rule 4, the judge assigned to the habeas proceeding must examine the habeas petition and order a response to the petition unless it “plainly appears” that the petitioner is not entitled to relief. *See Valdez v. Montgomery*, 918 F.3d 687, 693 (9th Cir. 2019); *Boyd v. Thompson*, 147 F.3d 1124, 1127 (9th Cir. 1998).

Petitioner’s lack of organization makes his petition impossible to understand. As such, I cannot determine whether he may be entitled to any relief. Moreover, the petition appears to

1 attack a conviction that occurred in 2000 and, thus, is likely time-barred. Petitioner may, if he
2 chooses, file an amended petition that addresses these deficiencies. If he does not, I will
3 recommend that this action be dismissed. If petitioner files an amended petition, he should
4 subdivide it by claim so that I and respondents (if they are eventually served) may understand the
5 specifics of his claims.

6 It is ORDERED that:

- 7 1. Petitioner's application to proceed in forma pauperis, ECF No. 2, is GRANTED.
- 8 2. Petitioner may file an amended § 2254 petition within thirty days of this order's
9 entry. If he does not, I will recommend that the current petition be dismissed for the reasons
10 stated in this order.
- 11 3. The Clerk of Court is directed to send petitioner a federal habeas form with this
12 order.

13
14 IT IS SO ORDERED.

15 Dated: December 21, 2022


16 JEREMY D. PETERSON
17 UNITED STATES MAGISTRATE JUDGE
18
19
20
21
22
23
24
25
26
27
28